

1 couple days.

2 Q. But it was over a two-week time
3 period?

4 A. Yes.

5 Q. Do you remember if they sent you faxes
6 at the beginning of the time period that you
7 began to speak with them or towards the end of
8 the time period you were speaking with them?

9 A. Towards the beginning.

10 Q. So is it fair to say that those
11 conversations lasted until the end of December?

12 A. Yes. It was more in the beginning
13 then towards the end of that period.

14 Q. And the beginning of the time period
15 was around the 18th of December?

16 A. Yes.

17 Q. Could you give me a rough idea of how
18 those conversations went? You initiated them?
19 You called Mr. Mincoff first?

20 A. Yes.

21 Q. What did you say to him?

1 A. I asked him about the Discontinuance
2 Application. What I needed to do if he had a
3 sample.

4 Q. And he sent you the sample?

5 A. Yes.

6 Q. On the 18th of December?

7 A. Yes.

8 Q. Approximately?

9 A. Uh-huh.

10 Q. And then what did you do?

11 A. What did I talk about or what did I
12 do?

13 Q. What did you do? Did you call him
14 back after reading over the sample or did you
15 begin to draft the Discontinuance --

16 A. I began the draft, the application.

17 Q. Did you call him back while you were
18 drafting the Discontinuance Application?

19 A. While I was drafting, I don't
20 remember.

21 Q. Did you call him back to talk about

1 specifics of your -- of Business Options'
2 Discontinuance Application?

3 A. To compare to this one (indicating)?

4 Q. For any reason.

5 A. For anything?

6 Q. Yes.

7 A. I don't recall.

8 Q. Do you recall when the next time you
9 spoke with either Mr. Mincoff or Mr. Adams after
10 Mr. Mincoff faxed you Cable and Wireless'
11 application?

12 A. Actually, I did call. Now I remember.
13 He didn't fax it to me and I called him to see
14 where it was. And he faxed it to me. And I just
15 asked him basic questions like, what's going to
16 happen and what else I needed to do.

17 Q. And you called him because he hadn't
18 faxed to you Cable and Wireless' sample?

19 A. The second time I talked to him is
20 when I called him because I didn't receive the
21 sample. And then he sent it over to me.

1 Q. And then you called him to say what?

2 A. Then what?

3 Q. Then you called him to say -- I
4 thought you just said that after he faxed it to
5 you, then you called him up to talk again; is
6 that correct?

7 A. No. After -- say that again.

8 Q. After Mr. Mincoff faxed the Cable and
9 Wireless sample application, did you then call
10 him back?

11 A. Yes.

12 Q. And what was the purpose of that call?

13 A. I asked him if he would look at it.
14 He told me that he would look at for me.

15 Q. And when you say "look at it," do you
16 mean Business Options' applications?

17 A. Business Options. The one that I
18 drafted off of the sample he faxed me.

19 Q. Had you written Business Options'
20 application at that time?

21 A. Yes.

1 Q. So you received the sample Cable and
2 Wireless application from Mr. Mincoff?

3 A. Yes.

4 Q. And roughly the next thing you did was
5 begin to write Business Options' application; is
6 that correct?

7 A. Yes.

8 Q. How did you write Business Options'
9 application?

10 A. I pretty mirrored this one
11 (indicating).

12 Q. Did you do it in one sitting?

13 A. I believe so.

14 Q. Do you remember how long it took you?

15 A. No, I don't.

16 Q. I'm going to show you a fax from you
17 to John Adams, dated December 20th. That
18 attaches what looks to be Business Options'
19 Discontinuance Application. Do you recognize
20 that?

21 A. Yes.

1 Q. Did you see that refresh your memory
2 as to when you wrote Business Options'
3 Discontinuance Application?

4 A. 12-20.

5 Q. Does that help jog your memory?

6 A. A little bit.

7 Q. Now, when you sent this Discontinuance
8 Application to Mr. Adams, were you intending to
9 file it with the Commission?

10 A. He told me yes. And he told me he
11 would look over it.

12 Q. Can you read that, please.

13 A. "To John Adams from Lisa Green. I am
14 sending these documents to Vermont PUC,
15 Governor's office and the U.S. Secretary of
16 Defense. Please let me know if I am missing
17 anyone or anything. Thank you. You've been a
18 lot of help." Thank you. Have a great holiday.
19 Lisa."

20 Q. And that's your handwriting at the
21 bottom of that fax cover sheet?

1 A. Yes.

2 Q. Did Mr. Adams respond to your request?

3 A. I don't recall.

4 Q. Did Mr. Mincoff respond to your
5 request?

6 A. I don't remember if they specifically
7 responded or what they said.

8 Q. Did you sign that copy of the
9 Discontinuance Application that's attached to
10 that fax cover sheet?

11 A. This one specifically, yes.

12 Q. But the version that you faxed to Mr.
13 Adams, was that a signed copy of the application?

14 A. No.

15 Q. Between December 18 and December 20th,
16 did you have any conversations with either Mr.
17 Mincoff or Mr. Adams?

18 A. I don't remember. I talked to them
19 both quite a few times.

20 (A short break was taken.)

21 Q. When we -- before we broke, we were

1 talking about the conversations that you had with
2 Mr. Mincoff and Mr. Adams at the FCC in the
3 roughly two-week period towards the end of
4 December of 2002. In any of these conversations,
5 did you ask Mr. Mincoff or Mr. Adams about the
6 Commission's Discontinuance Rule, specifically 47
7 CFR 63.71?

8 A. I don't recall.

9 Q. Did you have any discussions initiated
10 by either Mr. Mincoff or Mr. Adams about the
11 Commission's Discontinuance Rules, specifically
12 47 CFR 63.71?

13 A. I remember one of them telling me that
14 I could find them on-line.

15 Q. "Them," being?

16 A. Being the rules.

17 MR. HAWA: If I could ask a
18 clarification again. Obviously, they're talking
19 about the Discontinuance Rules generally. You're
20 talking about the specific requirements of 63.71.

21 MR. HARKRADER: No. I'm actually

1 asking more generally. Was there any discussion
2 about 47 CFR 63.71? Were there discussions about
3 that rule?

4 MR. HAWA: Not generally,
5 specifically.

6 MR. HARKRADER: I think we're saying
7 the same thing.

8 MR. HAWA: I don't think so.

9 MR. HARKRADER: You don't think so? I
10 hear you though.

11 BY MR. HARKRADER:

12 Q. Did you have any conversations with
13 Mr. Mincoff about the specific requirements of
14 that rule, meaning, Section 63.71 of the
15 Commission's rules?

16 A. I remember him telling me I could find
17 those rules on-line.

18 Q. Do you remember which -- was it Mr.
19 Mincoff or Mr. Adams?

20 A. I want to say Mincoff, but I'm not
21 absolutely sure.

1 Q. Do you remember where he told you to
2 find those rules?

3 A. All he said was on-line.

4 Q. Did you make any attempt to find those
5 rules on-line?

6 A. Yes, I did.

7 Q. Were you successful?

8 A. No, I wasn't. Not at first.

9 Q. Do you remember if --

10 A. Eventually, I was. But right after
11 that conversation, I did not find --

12 Q. In the late December time frame, were
13 you successful?

14 A. Correct, yes.

15 Q. You were not successful in the late
16 December time frame?

17 A. Pardon me?

18 Q. You were not successful in finding
19 those rules?

20 A. It was later December that I found
21 those rules, but not that same day that I talked

1 to Mincoff and told me it was on-line. I could
2 not find it then, the end of December.

3 Q. That's helpful. When you had the
4 discussion with either Mr. Mincoff or Mr. Adams,
5 and they told you that you could find the
6 specifics of Rule 63.71, the Commission's
7 Discontinuance Rules on-line, was that before you
8 had drafted the Discontinuance Application for
9 BOI?

10 A. Yes, it was.

11 Q. Did you also have a conversation with
12 either Mr. Mincoff or Mr. Adams or both of them
13 about -- or in which they suggested that Business
14 Options file a waiver?

15 A. Yes.

16 Q. And what was the waiver for?

17 A. A waiver of, I believe, the specific
18 rules of that.

19 Q. Of Section 63.71?

20 A. Yes.

21 Q. Did you ask them or did they tell you

1 what specific parts of Rule 63.71 BOI needed a
2 waiver for?

3 A. Yes.

4 Q. What part was that?

5 A. For the way it was -- the way we were
6 going about the Discontinuance Letter and the
7 time frame.

8 Q. And what about the time frame?

9 A. It wasn't in accordance with the FCC
10 regulations.

11 Q. Did they tell you what those
12 regulations were?

13 A. Yes, they did.

14 Q. And what were those regulations?

15 A. I don't remember exactly, but it was a
16 lot longer than he had put in the letter. We
17 gave the customer 15 days because there was a
18 misunderstanding with the 15 days.

19 Q. And you're pointing to --

20 A. And eventually longer -- I'm sorry.
21 I'm pointing at -- it doesn't have a number --

1 the November 19th letter.

2 Q. And that's the one from the State of
3 Vermont?

4 A. Correct. Stating that recipients of
5 the notice have 15 days from receipt to file
6 objection with the FCC. Which is true, but we're
7 not supposed to, from my understanding of talking
8 to them, discontinue until the FCC has a time
9 period also that we were supposed to go by.

10 Q. And you learned about those rules from
11 Mr. Mincoff or Mr. Adams?

12 A. Correct.

13 Q. And do you have a copy of the
14 Discontinuance Letter?

15 A. In front of me?

16 Q. Yes. That Business Options actually
17 sent out.

18 A. No. Not in front of me.

19 Q. I'm going to show you a copy that we
20 looked at previously. And this is the copy of
21 the Discontinuance Letter that was apparently

1 sent out to the Vermont customers that bears your
2 signature but does not bear a Bate Number.

3 A. Okay.

4 Q. What was your understanding in talking
5 to Mr. Mincoff and Mr. Adams? What was your
6 understanding about that letter that was
7 incorrect or not in compliance with the
8 Commission's rules pertaining to discontinuance?

9 MR. HAWA: This letter was not faxed.
10 This was not in the transmittal to Mr. Adams or
11 Mr. Mincoff. The Discontinuance Letter that
12 you're holding was not sent to John Adams or John
13 Mincoff. Is that in the record?

14 MR. HARKRADER: I don't know if it was
15 or not, but that's the letter that went out, so I
16 want to understand --

17 MR. HAWA: I'm sorry. I thought your
18 question was: What did Mr. Adams or Mr. Minkoff
19 tell you about the Discontinuance Letter?

20 MR. HARKRADER: If that was my
21 question, that's not what I meant.

1 BY MR. HARKRADER:

2 Q. After you had the conversation or
3 while you were talking to Mr. Mincoff and Mr.
4 Adams about the Commission's regulations with
5 respect to Discontinuance Notifications, all that
6 is found in 63.71, what about the letter that BOI
7 sent out does not comply with the Commission's
8 rules pertaining to discontinuance?

9 A. Because, I don't remember exactly, but
10 he said that you give the customers 15 days,
11 which is a Vermont regulation. But it actually
12 is a longer process Federally.

13 Q. The FCC requires a longer process?

14 A. Right.

15 Q. And do you remember what Mr. Mincoff
16 or Mr. Adams told you was the FCC's process?

17 A. I don't remember. They did tell me, I
18 don't remember. But I remember them saying that
19 they shouldn't be disconnected until -- it was
20 either mid January or mid February.

21 Q. On what were they basing that date?

1 A. The FCC regulations. But this had
2 already been sent out.

3 Q. Correct. So that letter which you
4 sent out in the very beginning of December?

5 A. Yes.

6 Q. And based on the date that you sent
7 that letter out according to the FCC regulations
8 and according to Mr. Minkoff and Mr. Adams, BOI
9 should not have terminated service in Vermont
10 until mid January?

11 A. Correct.

12 Q. Did you have this conversation with
13 either Mr. Mincoff or Mr. Adams -- strike that.

14 Did Mr. Mincoff or Mr. Adams actually
15 see the letter that -- the discontinuance to
16 Vermont customers that BOI had sent?

17 A. I believe they did.

18 Q. How did they see that?

19 A. I believe Vermont sent them a copy.

20 Q. Did Mr. Mincoff or Mr. Adams reference
21 the fact that Vermont had sent them a copy?

1 A. No.

2 Q. Do you remember when Vermont sent that
3 to Mr. Adams or Mr. Mincoff?

4 A. No, I don't.

5 (Discussion held off the record.)

6 Q. Let's take a look at 63.71. Will you
7 read the Bate Number at the bottom?

8 A. 08447.

9 Q. And does that appear to be a copy of
10 the Section 63.71 application?

11 A. Yes.

12 Q. That you filed with the FCC?

13 A. Yes.

14 Q. Did you file that?

15 A. Yes, I did.

16 Q. How did you go about doing that
17 filing?

18 A. What do you mean?

19 Q. Did you fax it to Mr. Mincoff or Mr.
20 Adams?

21 A. I believe I did. I faxed -- I believe

1 that I faxed it.

2 Q. Did you also mail it to the
3 secretary's office at the FCC?

4 A. Yes.

5 Q. And you did that on Mr. Minkof's or
6 Mr. Adams' instructions?

7 A. Yes.

8 Q. Do you have the Cable and Wireless
9 application also in front of you?

10 A. Yes.

11 Q. When you received the Cable and
12 Wireless application from Mr. Mincoff, did you
13 immediately begin writing Business Options'
14 application?

15 A. Yes.

16 Q. And I believe you told me this before,
17 but you did it basically taking a great deal from
18 the Cable and Wireless application?

19 A. Yes.

20 Q. And putting into, I assume, a new Word
21 document?

1 A. Yes.

2 Q. I'd like to direct your attention to
3 paragraph six of Business Options' application,
4 which is the bottom of the second page. And will
5 you read that out loud into the record, please.

6 A. "Business Options, Inc. requests
7 authority to withdraw from the long distance
8 resale in the State of Vermont. Business Options
9 has re-evaluated its long distance business plan
10 and has concluded that it is in the company's
11 best interests at this time to streamline its
12 service offerings in Vermont."

13 Q. And continues on to the next page.
14 Please read that. Did I give you a bad copy?

15 A. Yes. "The applicant's request to
16 withdraw its long distance services from Vermont
17 is a strategic business decision based upon the
18 company's plans for future growth."

19 Q. And turn to the previous page. What
20 is the title of that section?

21 A. "Reason for request to discontinue

1 long distance service."

2 Q. Did you write that paragraph six
3 yourself?

4 A. No, I did not.

5 Q. Who wrote it?

6 A. I took it off the Cable and Wireless
7 application.

8 Q. The Cable and Wireless application.
9 Can you read paragraph six of that, please.

10 A. Yes. "Reason for request to
11 discontinue local service: Cable and Wireless
12 requests authority to withdraw from the local
13 resale and markets in Connecticut, California and
14 New York. Cable and Wireless has reevaluated its
15 local business plan and it has concluded that it
16 is in the company's best interest, at this time,
17 to streamline its service offerings and to focus
18 its attention and financial strength on the
19 provision of inner exchange and other enhanced IP
20 services to business customers. The applicant's
21 request to withdraw from these local resale

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1 markets is a strategic business decision that's
2 based upon the company's plans for future
3 growth."

4 Q. Thank you.

5 A. Your welcome.

6 MR. HAWA: Is there any way that we
7 can note, for the record, because it's not clear
8 that those provisions are substantially
9 identical.

10 MR. HARKRADER: I think the record
11 will reflect that.

12 BY MR. HARKRADER:

13 Q. Is the reason that you gave in
14 paragraph six for Business Options'
15 discontinuance correct?

16 MR. HAWA: Objection. That calls for
17 a legal conclusion.

18 MR. HARKRADER: How is that? She's
19 the one who drafted this.

20 (Discussion held off the record.)

21 BY MR. HARKRADER:

1 Q. Is paragraph six as you wrote it in
2 Business Options' application accurate?

3 A. To a certain extent.

4 Q. To what extent is that?

5 A. At that time, I believed the company
6 was making a business decision other than
7 fighting Vermont to stay in their state.

8 Q. How did you come to that understanding
9 that the company was making that business
10 decision?

11 A. That was my opinion.

12 Q. Based on what?

13 A. Just based on things that I had read.

14 Q. What had you read?

15 A. It was my understanding that they
16 would have to fight to stay in Vermont other than
17 get reinstated -- withdrawn.

18 Q. And what had you read to that effect?

19 A. It was my understanding. Nothing that
20 I read. Things that I had read, the
21 Discontinuance. But it was my understanding that

1 they would have to really fight to stay in
2 Vermont. So it would be a better decision to
3 withdraw as ordered. I did not understand the
4 process at the time of what they had to do to
5 stay, is what that I meant.

6 Q. You did not understand what process at
7 the time?

8 A. Everything that they had to do to stay
9 in there. I knew it would have to be like a
10 court or a hearing. I'm sorry.

11 Q. And "they" is Business Options?

12 A. Business Options, sorry.

13 Q. But this is substantially similar to
14 the reason given in the Cable and Wireless
15 application, is it not?

16 A. Correct.

17 Q. At this time, did you know about the
18 Vermont investigation?

19 A. Yes.

20 Q. And did you know that the company had
21 agreed to withdraw from service in Vermont?

1 A. Yes.

2 Q. But you nonetheless put in paragraph
3 six that the reason that Business Options was
4 withdrawing was because it reevaluated its long
5 distance plan and concluded that it was in the
6 company's best interests to streamline its
7 service offerings in Vermont?

8 A. Right.

9 Q. Did you put anything in here about the
10 Vermont stipulation or the agreement that BOI had
11 with Vermont?

12 A. No.

13 Q. Why did you not do that?

14 A. I wasn't aware that I had to do that.

15 Q. But isn't that the reason why Business
16 Options was not going to continue doing business
17 in Vermont?

18 A. They agreed to stop doing business in
19 Vermont. But I was under impression that they
20 could have fought to stay.

21 Q. "They," being BOI?

1 A. Business Options, correct.

2 Q. And had they continued to fight, there
3 would be no need for a Discontinuance
4 Application; is that correct?

5 A. Right. I wouldn't think so.

6 Q. Will you please now look at paragraph
7 eight on the third page of Business Options'
8 application. Will you please read that paragraph
9 into the record.

10 A. "Business Options has developed a
11 comprehensive customer notification that will
12 ensure a seamless transition for its current long
13 distance customers. The initial customer notice
14 letter has been sent to customers and attached as
15 Exhibit A. As we did not know of the FCC
16 requirements to send the letter out pursuant to
17 63.71. We are requesting a waiver not to reissue
18 the notification letter.

19 Please consider that Business Options
20 is not a dominant carrier. Our letter has all
21 the information requests by the State of Vermont